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**IN THE UNITED STATES DISTRICT COURT
DISTRICT OF ARIZONA**

Estados Unidos Mexicanos,

Plaintiff,

vs.

Diamondback Shooting Sports, Inc., an
Arizona corporation; SNG Tactical,
LLC, an Arizona limited liability
company; Loan Prairie, LLC D/B/A
The Hub, an Arizona limited liability
company; Ammo A-Z, LLC, an
Arizona limited liability company;
Sprague's Sports, Inc., an Arizona
corporation,

Defendants

NO. 4:22-cv-00472-TUC-RM

**JOINT NOTICE REGARDING DEPOSITIONS AND WRITTEN
DISCOVERY**

The parties have met and conferred regarding depositions and written discovery and
the parties' positions are as follows:

1 **I. FACT WITNESS DEPOSITIONS**

2 **Plaintiff's Proposal**

3 The Government shall be allowed to take up to seven (7) depositions of each
4 Defendant's current and/or former employees, inclusive of any depositions noticed pursuant
5 to Rule 30(b)(6) of the Federal Rules of Civil Procedure ("30(b)(6) Deposition"), subject to
6 the Government's ability to seek leave to take additional depositions, if necessary. Within
7 thirty (30) days of serving a notice of deposition under Rule 30(b)(6), the Parties will meet
8 and confer as required by Rule 30(b)(6) regarding the topics to be addressed at the Rule
9 30(b)(6) deposition, the date for such deposition, and the length of such deposition. If the
10 parties are unable to agree after good faith negotiations, they may make an appropriate
11 application to the Court.

12 Defendants shall be allowed to collectively take up to seven (7) depositions of the
13 Government's current and/or former employees, inclusive of any depositions noticed
14 pursuant to Rule 30(b)(6) of the Federal Rules of Civil Procedure ("30(b)(6) Deposition"),
15 subject to Defendants' ability to seek leave to take additional depositions, if necessary.
16 Within thirty (30) days of serving a notice of deposition under Rule 30(b)(6), the Parties
17 will meet and confer as required by Rule 30(b)(6) regarding the topics to be addressed at
18 the Rule 30(b)(6) deposition, the date for such deposition, and the length of such deposition.
19 If the parties are unable to agree after good faith negotiations, they may make an
20 appropriate application to the Court.
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1 There shall be no limit on the number of third-party depositions that are noticed by
2 any
3 Party. However, the parties reserve the right to seek a protective order as to the taking of
4 third-party depositions depending upon the circumstances. The parties agree to work
5 together in good faith to identify relevant third-party witnesses, including the current
6 locations and accurate contact information for any possible third-party witnesses.
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8 If the parties exchange initial disclosures and see a need to adjust the number of
9 depositions, the parties can negotiate in good faith and submit an amended proposal.
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11 Any party that moves for or objects to a Letter of Request or Judicial Assistance
12 either
13 under The Hague Convention on the Taking of Evidence Abroad in Civil or Commercial
14 Matters or Letters Rogatory to non-Hague signatories will serve that motion or objection.
15 To the extent not inconsistent with applicable foreign law, this Order applies to any foreign
16 depositions for which (i) the Court issues a Letter of Request or Judicial Assistance either
17 under The Hague Convention on the Taking of Evidence Abroad in Civil or Commercial
18 Matters or as a Letters Rogatory to non-Hague signatories and (ii) a foreign court permits
19 the deposition to occur. If a foreign court order is required to secure a foreign witness'
20 attendance, (1) a party who has obtained valid letters rogatory or a valid Hague request; (2)
21 the witness's counsel; and (3) counsel for a party associated with the witness. In the event a
22 party remotely deposes a witness who resides in Mexico, the time zone of the witness's
23 location will be the relevant time zone for the deposition. Other parameters of any such
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1 foreign depositions, including date, time, location, ground rules, etc., shall otherwise be
2 governed by the Federal Rules of Civil Procedure. The Parties will continue to meet and
3 confer on the mechanisms by which depositions of foreign witnesses will occur, subject to
4 the Hague Convention or other applicable foreign laws or treaties, and will submit a Report
5 to the Court.
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7 **Plaintiff's Statement**

8 Given that this case involves five separate defendants alleged to be involved in
9 transnational arms trafficking, the Government proposes that the parties stipulate a seven
10 (7) deposition limit per party. The Government therefore seeks leave of the court under
11 FRCP 30(a)(2) to take thirty-five (35) total depositions of Defendants collectively, as there
12 are five Defendants. Likewise, the Defendants should be permitted to collectively take
13 seven (7) depositions of the Government.
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15 Fed. R. Civ. P. 26(b)(2) states that “the court may alter the limits of these rules on
16 the number of depositions . . . under Rule 30.” The limits set forth by Rule 26(b) are not
17 intended to prevent necessary discovery, and courts have broad discretion to allow
18 additional discovery based on the complexity of the case. *See* Fed. R. Civ. P. 26(b) advisory
19 committee’s note (1993).
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21 Without the benefit of initial disclosures under FRCP 26(a)(1) at this time, the
22 Government’s proposal balances the Government’s need for discovery to support its claims
23 (and rebut Defendants’ affirmative defenses) with the parties’ and the Court’s desire to
24 avoid unnecessary and duplicative discovery.
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1 This case includes five Defendants who are engaged in separate transnational arms
2 trafficking enterprises, each with unique factual patterns. Moreover, each Defendant
3 presumably has distinct management, training, and security protocols, and varying levels of
4 adherence to local, state, and federal rules and regulations regarding the sale of firearms.
5 The Government requires its allotted depositions to depose the individuals involved in all
6 aspects of each Defendant's firearms enterprise. These Defendants are represented by
7 numerous defense attorneys from—at present—at least four different law firms. Four
8 Defendants have each individually raised up to 30 affirmative defenses (*See* ECF 52-55),
9 and one Defendant, Ammo A-Z, raised 40 affirmative defenses (*See* ECF 56). The
10 Government would therefore expect to take depositions based on Defendants' respective—
11 yet undisclosed—witness list to address these defenses, many of which accuse the
12 Government—and the United States Government—of active involvement in illegal arms
13 trafficking. *See, e.g.* ECF 52, Sixth Affirmative Defense, p. 56, claiming that the
14 Government failed to add parties indispensable to this case, including “the United States
15 Government (including but not limited to the DOJ, ATF, ICE, DEA, FBI and DHS)” and
16 also “Mexican government, military, and law enforcement officials who supply illegal
17 firearms to cartels.”
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21 The circumstances of this case therefore satisfy the need for the requested
22 depositions under FRCP 26(b)(1). The complexity of the factual backdrop giving rise to the
23 Government's claims against five Defendants alone warrants an order permitting Plaintiff to
24 far exceed the ten depositions permitted by FRCP 30. *See, e.g., Del Campo v. Am.*
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1 *Corrective Counseling Servs., Inc.*, 2007 WL 3306496, at *6 (N.D. Cal. Nov. 6, 2007)
2 (noting that the matter before the court was complex and “clearly warrants more than ten
3 depositions”); *Couch v. Wan*, No. 1:08CV1621 LJO DLB, 2011 WL 4499976, at *2 (E.D.
4 Cal. Sept. 27, 2011) (“[T]he complexity of this case justifies exceeding the presumptive
5 deposition limit.”). Courts have noted that “in a complex case involving multiple parties, ‘it
6 would be prejudicial to require [p]laintiffs to choose [the] ten depositions to take before
7 they know whether they will be granted more.’” *See, e.g., Gamino v. KPC Healthcare*
8 *Holdings, Inc.*, 2022 WL 601047, at *5 (C.D. Cal. Feb. 28, 2022) (citing *Blackwood v.*
9 *Vries*, 2015 WL 13914949, at *3 (C.D. Cal. Sept. 25, 2015)). The decision whether to grant
10 leave to exceed the number of depositions is a case-by-case determination. *See Powell v.*
11 *Texvans, Inc.*, 2011 WL 108950, at *1 (D. Nev. Jan. 12, 2011).

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14 Due to the clandestine nature of Defendants’ offenses, the Government must rely
15 almost entirely on the discovery process to develop admissible evidence for trial of this
16 case, which seeks important injunctive relief sufficient to protect and preserve the lives of
17 millions of Mexican citizens. And given the high stakes involved for the Government and
18 its citizens, any burden to Defendants incurred by sitting for the Government’s depositions
19 is significantly outweighed by the importance of allowing the Government to develop a
20 factual record.
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Moreover, in a case of this complexity,¹ with the number of parties involved and contested issues of both liability and remedy, the Government would be prejudiced in its ability to prosecute this case if it were limited at the outset to any less. The Government may not ultimately use all of its allotted depositions, but should not be deprived of the ability to fully develop and present its case.

The Government's proposal allows for a fair and full discovery of facts and information necessary to prove its claims at trial, and the Defendants' collective seven deposition limit is more than sufficient for the Defendants to discover their defenses in this action. The Government reserves the right to seek leave to take additional depositions, if necessary.

Defendants' Proposal

Plaintiff shall be allowed to take up to five (5) depositions of each Defendant's current and/or former employees, inclusive of any depositions noticed pursuant to Rule 30(b)(6) of the Federal Rules of Civil Procedure ("30(b)(6) Deposition"), subject to the Government's ability to seek leave to take additional depositions, if necessary. Within thirty (30) days of serving a notice of deposition under Rule 30(b)(6), the Parties will meet and confer as required by Rule 30(b)(6) regarding the topics to be addressed at the Rule

¹ Rule 26(b)(1) requires that discovery be relevant and "proportional to the needs of the case, considering the importance of the issues at stake in the action, the amount in controversy, the parties' relative access to relevant information, the parties' resources, the importance of the discovery in resolving the issues, and whether the burden or expense of the proposed discovery outweighs its likely benefit."

1 30(b)(6) deposition, the date for such deposition, and the length of such deposition. If the
2 parties are unable to agree after good faith negotiations, they may make an appropriate
3 application to the Court.

4 Defendants shall be allowed to collectively take up to twenty-five (25) depositions of
5 the Government's current and/or former employees, inclusive of any depositions noticed
6 pursuant to Rule 30(b)(6) of the Federal Rules of Civil Procedure ("30(b)(6) Deposition"),
7 subject to the Defendants' ability to seek leave to take additional depositions, if necessary.
8 However, if Plaintiff lists more than twenty-five (25) fact witnesses in its Rule 26 Initial
9 Disclosure(s) and/or in response to Defendants' interrogatories, Defendants shall be entitled
10 to depose each and every one of such disclosed witnesses without seeking leave from the
11 Court. Within thirty (30) days of serving a notice of deposition under Rule 30(b)(6), the
12 Parties will meet and confer as required by Rule 30(b)(6) regarding the topics to be
13 addressed at the Rule 30(b)(6) deposition, the date for such deposition, and the length of
14 such deposition. If the parties are unable to agree after good faith negotiations, they may
15 make an appropriate application to the Court.

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19 There shall be no limit on the number of third-party depositions that are noticed by
20 any Party. However, the parties reserve the right to seek a protective order as to the taking
21 of third-party depositions depending upon the circumstances. The parties agree to work
22 together in good faith to identify relevant third-party witnesses, including the current
23 locations and accurate contact information for any possible third-party witnesses.
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1 The parties agree to produce for deposition all witnesses under their control or
2 identified by a party as having information in support of its claims or defenses, including
3 officials and employees of the Mexican Government, and officers, directors, and employees
4 of the corporate defendants, at mutually agreeable locations within the District of Arizona,
5 or if the witness resides in the United States, but outside of Arizona, in the state of the
6 witness's residence (within the subpoena power for Rule 45).
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8 With respect to witnesses located outside of the United States and not within the
9 scope of the preceding paragraph, the parties shall work together in good faith to conduct
10 any and all foreign depositions or foreign witness depositions, including third-party facts
11 witnesses in Mexico, with minimal interference or restrictions by any foreign governments
12 including the Government of Mexico. The Government of Mexico, as the plaintiff in this
13 matter, has an obligation to make witnesses under their control and relevant to the claims
14 and defenses in this matter available for deposition and also has an obligation to assist in
15 good faith with the identification of possible third-party witnesses and with the scheduling
16 of third-party witness depositions with minimal foreign government interference. In the
17 event a party remotely deposes a witness who resides in Mexico, the time zone of the
18 witness's location will be the relevant time zone for the deposition. Other parameters of any
19 such foreign depositions, including date, time, location, ground rules, etc., shall otherwise
20 be governed by the Federal Rules of Civil Procedure. The Parties will continue to meet and
21 confer on the mechanisms by which depositions of foreign witnesses will occur, and will
22 submit a Report to the Court.
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Defendants' Statement

This case involves claims against five federally licensed firearms dealers located in Arizona for damages caused by multiple potential layers of unlawful firearms trafficking by third parties and extensive cartel violence in Mexico. As such, both liability and damages issues related to Plaintiff's cross-border burden of proof are intricate, wide-ranging, and subject to numerous avenues of procedural and substantive attacks. The discovery related to Defendants' business operations is narrow. Defendants believe that Mexico can easily extract all information necessary from each Defendant by deposing up to five (5) employees or former employees per Defendant, inclusive of the 30(b)(6) witness(es). However, limiting Defendants to the same collective number of witnesses to be deposed from the Government is absurd, and its refusal to negotiate any reasonable number of witnesses over seven (7) bordering on a lack of good faith, especially given that fact that information from Mexico's witness must include both liability and damages issues, which are completely separate and distinct in this case. Therefore, Defendants should be initially permitted to take up to twenty-five (25) depositions of employees, former employees and officials of the Mexican Government, with a provision that automatically increases that number if Plaintiff's witness list as set forth in its Initial Disclosure Statement combined with any fact witnesses identified in Mexico's discovery responses exceeds twenty-five (25). In essence, Defendants should be permitted to depose each and every fact witness identified by Mexico as a witness with relevant information in this case.

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1 Furthermore, Mexico made the decision to bring suit in this Court in the State of
2 Arizona. As such, Mexico should be required to produce the witnesses under its control
3 (employees and officials) or who will allegedly provide information supporting its claims
4 (non-party witnesses) within this District at its expense. It is our understanding that the
5 procedural rules for depositions in Mexico are extremely restrictive, are wholly within the
6 control of the Mexican Central Authority, may not even allow for oral questioning, and
7 would be highly prejudicial to Defendants' ability to fully investigate and defend this case.
8 As such, absent extra-ordinary circumstances, Plaintiff should be required to bring
9 witnesses to Arizona for purposes of being deposed by Defendants' counsel. Of course, if
10 agreeable to all parties and depending upon the specific nature of the witnesses' knowledge
11 or testimony, Defendants are willing to consider remote depositions of witnesses residing in
12 Mexico. Further, all depositions, no matter where taken, will be done pursuant to the
13 Federal Rules of Civil Procedure.
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16 Defendants agree with Plaintiff that the circumstances of this case satisfy the need
17 for the requested depositions under FRCP 26(b)(1). The complexity of the factual backdrop
18 giving rise to the Government's claims alone warrants an order permitting the parties to
19 exceed the ten depositions permitted by FRCP 30. The dispute, therefore, is the limited
20 number that Mexico is willing to agree to regarding its own witnesses.
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22 Defendants may not ultimately use all of its allotted depositions, but they should not
23 be deprived of the ability to fully develop and present their case.
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25 **II. WRITTEN DISCOVERY REQUESTS**

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1 **Plaintiff's Proposal**

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3 Plaintiff shall be allowed to propound fifty (25) written interrogatories per
4 Defendant, subject to Plaintiff's ability to seek leave to propound additional written
5 discovery, if necessary. As the Federal Rules do not limit the number of requests for
6 production plaintiffs are entitled to, the Government sees no need to limit the number of
7 requests for production, given the procedural protections allowing a party to limit their
8 scope, should the need arise.
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10 Defendants collectively shall be allowed to propound twenty-five (25) written
11 interrogatories on the Government, subject to Defendants' ability to seek leave to propound
12 additional written discovery, if necessary.

13 If the parties see a need to adjust the number of written interrogatories and requests
14 for production, the parties can negotiate in good faith and submit an amended proposal.
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16 **Plaintiff's Statement**

17 The Government, with the burden of proof, will limit its written requests in scope,
18 seek relevant information, and develop a factual record proportionate to proving its claims
19 at trial.

20 Conversely, the Government anticipates, based on Defendants' Answers to the
21 Complaint (ECF Nos. 52-56), that Defendants will attempt to utilize the discovery process
22 to subject the Government to undue burden and expense, for, by example, seeking
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information which exceeds the scope of the claims in this case.² *See, e.g.*, ECF 56, Second Affirmative Defense, p.52, claiming that “the Mexican government, military, and law enforcement officials [] supply illegal firearms to the cartels”; ECF 56, Seventh Affirmative Defense, p.53, stating that the Government Government “fail[ed] to enforce the criminal and civil laws of Mexico against criminal drug cartels which actually cause injury in Mexico.” Such written discovery would serve no purpose other than to harass the Government, and the benefit of any information sought to be gained by such requests is far outweighed by their burden. *See, e.g.* Fed. R. of Evid. 26(b)(1)-(2), in which the court will consider “whether the burden or expense of the proposed discovery outweighs its likely benefits.”

In any event, Defendants should not be reflexively allotted the same number of interrogatories as Plaintiff. Rule 26 places an independent, textually-grounded limitation on the number of interrogatories the parties may serve upon each other. See fn 1, Rule 26(b)(1). Defendants need to show why their desired allotment is proportionate to the needs of the case—that is, relevant and proportionate to proper and legally cognizable defenses—and to seek leave to that effect.

² The Government reserves its right to a protective order to limit discovery under Fed. R. Civ. P. 26(c)(1) (“The court may, for good cause, issue an order protecting a party or person from ...undue burden or expense.”).

Defendants' Proposal

Due to the complexity of both liability and damages related issues, Defendants shall be permitted to serve a collective (or joint) set of interrogatories to Plaintiff, not to exceed thirty-five (35) in number. Each Defendant may also serve individual sets of interrogatories, not to exceed twenty-five (25) in number.

There shall be no initial limit on the number of requests for production or requests for admissions, but the parties may seek such a limit from the Court at a later date.

Defendants' Argument

While Plaintiff need only address liability issues with its offensive discovery issued to Defendants, Defendants must explore both liability and damages issues in their offensive discovery to Plaintiff. This includes the identity and whereabouts of presently unknown witnesses, firearm traffickers, claimed victims of cartel violence, etc. That alone justifies increasing the number of allowable discovery requests to Defendants, and not giving an equal number to Plaintiff. Defendants believe that there are significant overlapping issues, especially related to damages issues, and as such, Defendants believe that the use of collective or joint sets of interrogatories would be more efficient.

Defendants agree with Plaintiff that limiting the number of Request for Production pursuant to Rule 34 or Requests for Admissions pursuant to Rule 36 is not required at this stage of the litigation.

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Respectfully submitted this 15th day of April, 2024

DECONCINI MCDONALD YETWIN & LACY, P.C.

By: /s/ Ryan O'Neal

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CERTIFICATE OF SERVICE

I, Ryan O’Neal, hereby certify that this document was filed with the Clerk of the Court via CM/ECF. Those attorneys who are registered with the Court’s electronic filing systems may access this filing through the Court’s CM/ECF system, and notice of this filing will be sent to these parties by operation of the Court’s electronic filings system.

Dated: April 15, 2024

/s/ Ryan O’Neal
Ryan O’Neal

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